

WEBQA MASTER SERVICE(S) AGREEMENT

For GovQA FOIA Applications

THIS MASTER SERVICE(S) AGREEMENT (the "Agreement") between WebQA, Inc., d/b/a (hereafter "GovQA") GovQA ("GOVQA") with its principal place of business at 900 S. Frontage Road, Suite 110 Woodridge, IL, 60517 and the City of Palo Alto, a city with its principal place of business at 250 Hamilton Avenue, Palo Alto, CA 94301 ("Customer") is made effective as of April 1, 2018 ("Effective Date").

1. WEBQA DELIVERY OF SERVICE(S):

WEBQA grants Customer a non-exclusive, non-transferable, limited license to access and use the WebQA Service(s) on the Authorized Website(s) identified in the attached Schedule A in consideration of the fees and terms described in Schedule A. Electronic data transmission to comply with Customer's City of Palo Alto Information Security Rules as described in Schedule B. This Agreement will also govern all additional Schedules for Service(s).

2. CUSTOMER RESPONSIBILITIES:

Customer acknowledges it is receiving only a limited license to use the Service(s) and related documentation, if any, and shall obtain no title, ownership nor any other rights in or to the Service(s) and related documentation, all of which title and rights shall remain with WebQA. However, Customer will retain ownership of all its data in the system.

Customer agrees that (1) this license is limited to applications for its own use and may not lease or rent the Service(s) nor offer its use for others; (2) WebQA is not responsible for content placed into the system; (3) that the system will not be used to capture confidential information of any kind such as social security numbers or individual financial data or other sensitive data; and, (4) that it will maintain the Authorized Website(s) identified in Schedule A, provide WEBQA with all information reasonably necessary to setup or establish the Service(s) on Customer's behalf, and allow a "Powered by GovQA" logo with a hyperlink to WebQA's website home page on the Authorized Website.

3. SERVICE(S) LEVELS:

WEBQA will use commercially reasonable efforts to backup and keep the Service(s) and Authorized Website(s) in operation consistent with applicable industry standards and will respond to customers' requests for support during normal business hours.

THE SERVICE(S) ARE PROVIDED ON AN "AS IS" BASIS, AND CUSTOMER'S USE OF THE SERVICE(S) IS AT ITS OWN RISK. WEBQA DOES NOT WARRANT THAT THE SERVICE(S) WILL BE UNINTERRUPTED OR ERROR-FREE OR UNEFFECTED BY FORCE MAJEURE EVENTS.

4. WARRANTY AND LIABILITY:

WEBQA MAKES NO REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE SERVICE(S) AND SHALL HAVE NO LIABILITY FOR ANY CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, DATA LOSS AND BUSINESS INTERRUPTION, AND THE PARTIES AGREE THAT THE ONLY REMEDIES THAT SHALL BE AVAILABLE TO CUSTOMER UNDER THIS AGREEMENT SHALL BE THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT. WEBQA'S LIABILITY UNDER ALL CIRCUMSTANCES INVOLVED HEREIN IS EXPRESSLY LIMITED TO THE AMOUNT RECEIVED UNDER THIS AGREEMENT.

5. TERMINATION:

Either party may terminate this agreement without cause if the terminating party gives the other party sixty (60) days written notice prior to termination. Should Customer terminate without cause after the first date of the then current term as defined in the attached schedule,

Customer must pay the balance of the current contracted term and this payment obligation will immediately become due.

WebQA may terminate service(s) if payments are not received by WebQA as specified in Schedule A. All monies associated to the current term will be due immediately.

Upon any termination, WebQA will discontinue Service(s) under this agreement; WebQA will provide Customer with an electronic copy of all of Customer's data, if requested and for a cost of no more than \$2,500; and, provisions of this Agreement regarding Ownership, Liability, Confidentiality and Miscellaneous will continue to survive.

6. INDEMNIFICATION

To the fullest extent permitted by law, WebQA shall protect, indemnify, defend and hold harmless City of Palo Alto, its Council members, officers, employees and agents (each an "Indemnified Party") from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorneys fees, experts fees, court costs and disbursements ("Claims") resulting from, arising out of or in any manner related to performance or nonperformance by WebQA, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

7. ACCEPTABLE USE:

Customer represents and warrants that the Service(s) will only be used for lawful purposes, in a manner allowed by law, and in accordance with reasonable operating rules, policies, terms and procedures. WEBQA may, upon misuse of the Service(s), request Customer to terminate access to any individual and Customer agrees to promptly comply with such request unless such misuse is corrected.

8. CONFIDENTIALITY:

Each party hereby agrees to maintain the confidentiality of the other party's proprietary materials and information, including but not limited to, all information, knowledge or data not generally available to the public which is acquired in connection with this Agreement, unless disclosure is required by law. Each party hereby agrees not to copy, duplicate, or transcribe any confidential documents of the other party except as required in connection with their performance under this Agreement. Customer acknowledges that the Service(s) contain valuable trade secrets, which are the sole property of WebQA, and Customer agrees to use reasonable care to prevent other parties from learning of these trade secrets or have unauthorized access to the Service(s). WebQA will use reasonable efforts to insure that any WebQA contractors maintain the confidentiality of proprietary materials and information.

9. MISCELLANEOUS PROVISIONS:

This Agreement will be governed by and construed in accordance with the laws of the State of California.

WEBQA may not assign its rights and obligations under this Agreement, in whole or part, without prior written consent of Customer, which consent will not be unreasonably withheld.

10. ACCEPTANCE:

Authorized representatives of Customer and WEBQA have read the foregoing and all documents incorporated therein and agree and accept such terms effective as of the date first written above.

SIGNATURES CONTINUED ON NEXT PAGE

WEBQA MASTER SERVICE(S) AGREEMENT
For GovQA FOIA Applications

Customer: City of Palo Alto, CA

DocuSigned by:


Chris Anastole

2FF7A675EA6F4DE...
Chris Anastole

Contract Administrator

2/5/2018

Approve As To Form

DocuSigned by:


Tim Shimizu

23DECA072A0E483...
Tim Shimizu

Deputy City Attorney

2/2/2018

WebQA Inc.

DocuSigned by:


William Repole

492DF2A11603466...
William Repole

COO

2/2/2018

WEBOQA MASTER SERVICE(S) AGREEMENT
For GovQA FOIA Applications

SCHEDULE A

A. Service(s) Descriptions:

Subscribed Services	
GovQA FOIA Service	FOIA Request Service platform that captures all requests received via letter, website, email, fax, or walk-in. Includes the ability to post completed FOIA requests to the web for searching via the FOIA Public Archive portal.
GovQA FOIA Public Portal	Web Portal to capture FOIA requests and provide requestors with updates and history of previous requests.
GovQA FOIA Public Archive	Provides the ability to post completed FOIA requests to the web for searching via the FOIA Public Archive portal.

B. WebQA Agrees To The Following Functionality:

- (a) Future Branding to Customer Website is included once per billable term. Otherwise branding is billed at \$95/hr.
 - (b) Special Implementation Action (Integrations, etc.): None at this time

C. Training and Ongoing Support:

- (a) Ongoing support through system videos and knowledgebase
 - (b) Periodic webinars to train and update customers on new features
 - (c) Optional additional hours of online end-user training at \$125/hr
 - (d) Optional days of On-Site Training (\$1,800 per day plus expenses)
 - (e) Customer will log ALL ISSUES into WEBQA SUPPORT PORTAL at www.supportqa.com to receive service.

D. Fees:

Software Subscription Costs		
Software License(s)	Monthly Cost	Annual Cost
GovQA FOIA Services as Described in Section A – Unlimited Users	\$845	\$10,140
Total (Includes all Service(s) upgrades)	\$845	\$10,140

Data: Customer data is owned by customer. All document attachment storage is via an Amazon S3 standard storage account provisioned by WebQA. 500GB of storage is included with every additional 500GB of storage being assessed a fee of \$100/month. Additionally, 500GB per month of document attachment retrieval is included. Every 500GB over the allotted 500GB of document retrievals per month should be assessed a \$25 fee per month.

E. Terms: Billable Term Starting: April 1, 2018 Ending: March 31, 2023. Upon the expiration of this initial term, the term will continue to auto-renew to subsequent annual Optional Terms unless Customer notifies WEBQA in writing of its intention not to extend the term at least sixty (60) days prior to expiration of the current term end date. Annual increases within original term will not exceed more than three percent. Renewal terms will not increase by more than five percent.

F. Billing: All fees are exclusive of taxes, billed on an annual basis at time of contract signing, and due upon receipt of invoice. This secures site, servers and resources necessary to begin project. If payment is not received by start of the **Billable Term**, WebQA has the right to suspend all services. Furthermore, invoices accrue 1% per month past due and customer is responsible for all costs, including attorney fees, for the collections of invoices.

G. Remittance: All payments should be made directly to WebQA. WebQA mailing address for all payments is:
WebQA Accounts Receivable Department, 900 S. Frontage Road Suite 110, Woodridge, IL 60517

H. Contacts:

Organization Name: City of Palo Alto **Main Contact Name:** David Carnahan **Title:** Deputy City Clerk
Address: 250 Hamilton Avenue **City:** Palo Alto **State:** CA **Zip:** 94301
Work Phone: 650-329-2267 **Email:** David.Carnahan@CityofPaloAlto.org

Billing Contact Name: Same as Above
Address: _____ Title: _____
City: _____ State: _____ Zip: _____
Work Phone: _____ Cell: _____ Email: _____ Fax: _____

WEBQA MASTER SERVICE(S) AGREEMENT **For GovQA FOIA Applications**

SCHEDULE B

A. Data Protection Description:

Vendor shall encrypt all data entered and uploaded using the following or equivalent technology as applicable:

- a) Front-end Encryption – Prior to leaving the backup server, data shall be encrypted using the National Institute of Standards and Technology (NIST) 128-bit or 256-bit Advanced Encryption Standard (AES).
- b) Over-the-Wire Encryption – to ensure the security of transmitted data even over the Internet to communication channel shall be secured through Https, SSL, VNC or VPN technology as applicable.
- c) At-Rest Encryption – Data at rest shall remain encrypted using NIST 128-bit or 256-bit Advanced Encryption Standard (AES), while it remains at the Vendor's data centers.